

REMARKS

Applicant's undersigned attorney thanks the Examiner for the Examiner's comments. Applicant respectfully requests reconsideration of this patent application, particularly in view of the above Amendment and the following remarks. Currently, Claims 1-18 are pending.

Amendments to the Claims

Claims 1-18 have been examined, and the Examiner has indicated that Claims 9-11 would be allowable if rewritten in independent form.

Applicant has amended Claim 1 to include the limitation of the textile layer comprising a glass filament hose, which is recited as one member of the Markush group in Claim 4. Applicant respectfully requests cancellation of Claim 4.

Applicant has amended Claim 16 by replacing the term "and/or" with Markush group language in order to remove any indefiniteness from the claim. Applicant has amended Claims 17 and 18 by replacing the term "PET" with the spelled-out form of this term, namely polyethylene terephthalate.

No new matter has been added by this Amendment. No additional fee is required because the number of independent claims remains unchanged and the total number of claims has been reduced.

Information Disclosure Statement

The Examiner has acknowledged consideration of the references listed on page 1 of 2 of Form PTO-1449 attached to the First Information Disclosure Statement filed 14 June 2004. Applicant respectfully requests the Examiner's acknowledgment of consideration of the references cited on page 2 of Form PTO-1449 attached to the First Information Disclosure Statement.

Claim Rejections - 35 U.S.C. §112

The rejection of Claims 16-18 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention is respectfully traversed.

Claim 16 has been amended to include Markush group language in place of the term “and/or.” Claims 17 and 18 have been amended to include the spelled-out form of the term “PET,” namely polyethylene terephthalate.

In accordance with 35 U.S.C. §112, second paragraph, Applicant’s amended Claims 16-18 particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Accordingly, Applicant respectfully requests reconsideration and withdrawal of this rejection.

Claim Rejections - 35 U.S.C. §103

The rejection of Claims 1-8 and 12-18 under 35 U.S.C. §103(a) as being unpatentable over Winter et al. (U.S. Patent No. 5,256,233) is respectfully traversed.

Winter et al. pertains to a flexible hose construction for conveying a volatile liquid such as gasoline for transportation vehicles and the like and still permits the hose construction to be sufficiently flexible and lightweight. (Col. 1, lines 51-55).

The flexible hose construction in Winter et al. is made of a corrugated hose 21 formed of a polymeric material on which a tube 26 of a polymeric material is extruded, and outwardly of this hose or tube 26 a sleeve 27 of reinforcing material is disposed in a telescoping relation, and on this sleeve 27 an outer layer 28 is disposed.

Thus, the flexible hose construction of Winter et al. has four layers in which the outer layer 28 is made of a suitable polymeric material but not a metallic material, as in Applicant’s claimed invention.

To establish a prima facie case of obviousness, there must be some suggestion or motivation, either in the reference itself or in the knowledge generally available to one of ordinary skill in the art, to modify the reference. Contrary to the Examiner’s assertion, it would not have been obvious to one having ordinary skill in the art to provide the assembly of Winter et al. with a metallic outer layer since Winter et al. specifically disclose an outer layer made from a polymeric material. Absent impermissible hindsight, there is no suggestion or motivation for a person skilled in the art to use a metallic layer instead of a polymeric layer.

Furthermore, Winter et al. do not disclose or suggest the incorporation of a glass filament hose in any layers of the flexible hose, as recited in Applicant's amended Claim 1.

For at least the reasons given above, Applicant respectfully submits that the invention of Winter et al. fails to disclose or suggest Applicant's claimed invention. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

Allowable Subject Matter

The Examiner has indicated that Claims 9-11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. As indicated above, Applicant believes that amended Claim 1 is now in condition for allowance. Therefore, Applicant believes that all claims depending from Claim 1, including Claims 9-11, are also in condition for allowance.

Conclusion

Applicant believes that this case is now in condition for allowance. If the Examiner feels that any issues remain, then Applicant's undersigned attorney would like to discuss the case with the Examiner. The undersigned can be reached at (847) 490-1400.

Respectfully submitted,



Melanie J. Rauch
Registration No. 40,924

Pauley Petersen & Erickson
2800 West Higgins Road, Suite 365
Hoffman Estates, Illinois 60195
(847) 490-1400
FAX (847) 490-1403